

# CHAPTER 7

## Agency, Tribal, and Public Involvement





## 7 AGENCY, TRIBAL, AND PUBLIC INVOLVEMENT

Public involvement activities include the project's coordination with and outreach to agencies, tribes, and the public, including community organizations. Agency, tribal, and public involvement activities for the Mukilteo Multimodal Project began in 2004, and have included public, agency, and tribal meetings, online meetings, and stakeholder briefings. Over the course of the project, WSDOT and FTA have provided many opportunities for agencies, tribes, and the public to provide input on the project's purpose and need, range of alternatives, and potential impacts.

WSDOT and FTA have an extensive communications program to involve the public, agencies, and tribes in developing this EIS in accordance with NEPA, SEPA, Section 106 of the National Historic Preservation Act, USDOT Order 5610.2, WSDOT Executive Order E1025.01, the WSDOT Centennial Accord Plan, and the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

This chapter describes the efforts conducted through the publication of the Final EIS. FTA's regulations implementing NEPA emphasize the importance of public involvement in the EIS process. Similarly, 23 USC 139(l) requires FTA to “(1) Extend an invitation to other Federal and non-Federal agencies and Indian tribes that may have an interest in the proposed project to become ‘cooperating’ or ‘participating’ agencies (2) provide an opportunity for involvement by agencies and the public in helping to define the purpose and need for a proposed project, as well as the range of alternatives for consideration in the impact statement, and (3) establish a plan for coordinating public and agency participation in and comment on the environmental review process.”

The comments received on the Draft EIS and their corresponding responses are included in *Appendix K Draft EIS Comments and Responses* of this EIS.

### 7.1 Outreach Goals and Objectives

An open public involvement process with ample opportunities to inform and involve the public, agencies, and tribes results in better projects. Stakeholders should have opportunities to interact with and receive responses from project team members on issues of interest or concern throughout each phase of the Mukilteo Multimodal Project. The project's *Coordination Plan* (in *Appendix H Coordination Plan, Tribal Consultation Plan, Public Involvement Plan*) outlines the goals and objectives of the public involvement process, and discusses the various communication methods (such as briefings and materials) used throughout project development.

### 7.2 Agency Coordination

As detailed in the *Coordination Plan*, agency coordination is led by FTA, with support and in conjunction with WSDOT, and includes early and continuous information exchange with the appropriate agencies. FTA's intent is to work cooperatively to identify and resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the project.

### 7.2.1 Lead Agency

FTA is the NEPA lead agency supervising the preparation of the EIS by WSDOT. WSDOT is the SEPA lead agency. See the *Coordination Plan* for a description of lead agency responsibilities.

### 7.2.2 Cooperating and Participating Agencies

Under SAFETEA-LU, participating agencies are those federal and non-federal agencies and tribes that may have an interest in the project. Cooperating agencies are by definition participating agencies, but with a higher degree of responsibility and involvement in the environmental review process. Cooperating agencies are any other federal agencies, tribal governments, state agencies, and local agencies with jurisdiction or special expertise with respect to any environmental issues that should be addressed in the EIS. Such agencies have been invited to serve as cooperating agencies. See the *Coordination Plan* for further information on the role of cooperating agencies. Table 7-1 lists cooperating agencies and Table 7-2 lists participating agencies.

**Table 7-1. Cooperating Agencies**

Cooperating Agencies	
City of Everett	City of Mukilteo
Community Transit	Port of Everett
Samish Indian Nation	Snohomish County
Sound Transit	Stillaguamish Tribe
Suquamish Tribe	Tulalip Tribes
U.S. Air Force	U.S. Army Corps of Engineers

**Table 7-2. Participating Agencies**

Participating Agencies	
Federal Highway Administration	Island County
National Park Service	Puget Sound Regional Council
U.S. Coast Guard	U.S. Environmental Protection Agency
U.S. Fish and Wildlife Service	Washington State Department of Archaeology and Historic Preservation
Washington State Department of Ecology	Washington State Department of Fish and Wildlife

As required by SAFETEA-LU, FTA and WSDOT asked for comments by agencies and tribes on the purpose and need for the project, the range of alternatives to be considered, and the Draft EIS. WSDOT accepted comments and offered briefings to agencies and tribes during the scoping period in 2010, during the development of the Draft EIS, and during the preparation of the Final EIS. Several agencies and tribes reviewed and commented on the Draft EIS. *Appendix K* contains responses to all public, agency, and tribal comments received during the Draft EIS comment period.

### 7.2.3 Tribes

FTA and WSDOT are committed to government-to-government consultation with Native American tribes on projects that may affect tribal rights and resources. The Mukilteo waterfront area is recognized as the site of the signing of the Point Elliott Treaty of 1855, and its cultural history predates that event by a thousand years or more. Elliot Point is a traditional territory of Native American peoples and was a landmark for peoples that lived or traveled within lower Puget Sound and the Salish Sea.

FTA and WSDOT engaged in consultation with affected tribes throughout the environmental review process, and will continue coordination during project construction, in accordance with the following authorities, among others:

- **NEPA** calls for federal agencies to invite the participation of any affected federally recognized Native American tribe in the environmental review process.
- **Section 106 of the National Historic Preservation Act** requires that federal agencies consult with federally recognized tribes, the State Historic Preservation Officer, and others regarding potential impacts and mitigation on historic properties prior to making decisions that could affect those properties.
- **Government-to-Government Relationship with Tribal Governments**, guided by a Presidential Memorandum dated September 23, 2004 and Executive Order 13175 dated November 6, 2000, require that federal agencies observe a government-to-government relationship with federally recognized tribal governments.
- **SAFETEA-LU** requires that federal agencies coordinate with tribal governments by inviting them to be “participating agencies.” Participating agency status provides tribal governments with an additional method to engage in the environmental review process, but it does not supersede government-to-government or Section 106 consultation. As participating agencies, tribes are afforded an opportunity to comment at specific project milestones outlined in SAFETEA-LU.
- **WSDOT Centennial Accord Plan** arose from Washington State’s 1989 Centennial Accord and the 1999 Centennial Accord Implementation Guidelines. The Centennial Accord Plan mandated that each state agency must have a procedure to implement effective government-to-government relations. The WSDOT Centennial Accord Plan includes the WSDOT Secretary's Executive Order on Tribal Consultation (E1025.01), a Dispute Resolution Policy, and detailed descriptions of the programs, services, and funding available to tribes from key WSDOT divisions and offices.
- **WSDOT Executive Order E1025.01** directs WSDOT employees to enter into consultation with tribes on all decisions that may affect tribal rights and interests. It defines consultation as respectful, effective communication in a cooperative process that works toward a consensus, before a decision is made or an action is taken. Consultation with governments occurs independently of

the public participation process. Representatives of tribal governments and tribal members have equal access to the public participation process.

See the *Tribal Consultation Plan* (in *Appendix H*) for further information about tribal coordination efforts, including contacts, correspondence, and dates of meetings with tribal representatives. Table 7-3 lists the tribes invited to participate in the development of the EIS.

**Table 7-3. Tribes Invited to Participate in the EIS**

<b>Federally Recognized Tribes</b>
Lummi Nation
Muckleshoot Indian Tribe
Nooksack Indian Tribe
Samish Indian Nation
Sauk-Suiattle Indian Tribe
Snoqualmie Tribe
Stillaguamish Tribe of Indians
Suquamish Tribe
Swinomish Indian Tribal Community
Tulalip Tribes
Upper Skagit Tribe

FTA and WSDOT are coordinating under Section 106 with the non-federally recognized Duwamish and Snohomish tribes as interested parties.

## **7.3 Public Involvement and Outreach**

### **7.3.1 Public Involvement Approach and Timeline**

The following sections outline public involvement for the Mukilteo Multimodal Project to date and how WSDOT and FTA will approach public involvement through the Record of Decision. Public involvement activities have been and will continue to coincide with major project milestones.

### **7.3.2 Public Involvement History**

Since the Mukilteo Multimodal Project was initiated in 2004, WSDOT and FTA have provided frequent opportunities for interested members of the public, agencies, and tribes to engage, share concerns, and discuss specific project details with WSDOT staff. Public involvement activities to date have included public meetings, agency and tribal meetings, online meetings, and stakeholder briefings.

The environmental review process for the Mukilteo Multimodal Project began with a NEPA EA process in 2004. WSDOT held two public EA scoping meetings in the fall of 2004. Early in 2006, upon review of comments from the public, agencies, and tribes and completion of environmental discipline studies, FTA and WSDOT determined that the potential impacts to natural and cultural resources would warrant a more detailed analysis and an EIS should be prepared instead.

On February 17, 2006, FTA published a Notice of Intent (NOI) to prepare an EIS for the Mukilteo Multimodal Project. FTA and WSDOT requested public comments on the scope of the alternatives and the impacts to be considered, and held two public meetings in March 2006. They also held an agency and tribal scoping meeting for the EIS on March 21, 2006.

The Washington State Legislature put the project on hold in 2007 due to funding and constructability issues associated with the previously identified alternatives. In 2009, WSDOT Ferries Division released its *Final Long-Range Plan*, which presents a vision for the future of the ferry system that maintains current levels of service and includes limited terminal improvements. Within the framework of the *WSDOT Ferries Division Final Long-Range Plan*, WSDOT and FTA reinitiated the environmental process in February 2010 with new project concepts for review and evaluation.

### **7.3.3 Public Involvement for this EIS**

FTA and WSDOT reinitiated the environmental review process in January 2010 with scoping. The purpose of the second scoping period was to reintroduce the revised project purpose and need, and gather input from agencies, tribes, and the public on the full range of potential alternatives and potential impacts.

General public involvement for the 2010 scoping period included:

- Targeted stakeholder outreach including briefings and interviews
- Four widely advertised in-person public meetings
- One online open house to reach residents who were unable or preferred not to attend a meeting in person
- An online comment tool that provided an easy and informative electronic method of learning about the concepts and submitting comments
- Notices and information on the project posted on the project website ([www.wsdot.wa.gov/projects/ferries/mukilteoterminal/multimodal/](http://www.wsdot.wa.gov/projects/ferries/mukilteoterminal/multimodal/)); this online resource has information on how to submit a comment and a library of project information

WSDOT and FTA held four in-person public scoping open houses in October 2010 to serve directly affected populations, and one online open house to increase participation among the broader community. Approximately 160 people attended the meetings in Whidbey Island, Mukilteo, Edmonds, and Everett and 15 people participated in the online open house.

At the scoping meetings, project team members answered questions and explained the concepts to participants. WSDOT staff gave a presentation on the project history, the concepts under consideration, and opportunities to get involved. Following the presentation, WSDOT offered participants the opportunity to provide comment, which was captured by members of the project team and included in the *Scoping Report* (WSDOT 2011).

The next formal opportunity for public involvement came after the release of the Draft EIS in January 2012. WSDOT and FTA used multiple methods to notify

agencies, tribes, and the public about the Draft EIS and the comment period. Comments were accepted by mail, e-mail, via an online comment form, and in person at two public hearings.

Public information and involvement opportunities during the Draft EIS phase included:

- A 45-day comment period initiated with the public release of the Draft EIS and public notices
- Two widely advertised public hearings in Mukilteo and Clinton that were attended by approximately 175 people

The website ([www.wsdot.wa.gov/projects/ferries/mukilteoterminal/multimodal/](http://www.wsdot.wa.gov/projects/ferries/mukilteoterminal/multimodal/)) served as the project's online resource, providing frequent updates, an online comment form, a project library of information, and the full Draft EIS document.

WSDOT and FTA received a total of 155 comment letters on the Draft EIS, including 135 comments from the public and 18 letters from agencies and tribes.

*Chapter 8* of the Final EIS provides additional details on the comments received.

WSDOT and FTA notified agencies, tribes, and the public about the availability of this Final EIS via the project website and the project listserv; the *Public Involvement Plan*, which outlines all the public involvement activities associated with the preparation and publication of this Final EIS, is located in *Appendix H*. Copies of the Final EIS are available at local libraries (see *Appendix F Distribution List* for locations).

## Stakeholder Outreach

In addition to the formal public and agency meetings during scoping and the Draft EIS comment period, WSDOT and FTA contacted a number of parties prior to the start of the scoping comment period and during the development of the Draft and Final EISs to gather insights from agency and tribal staff and community members about the project and to help refine the public involvement approach. This offered a chance to bring stakeholders up to date on the project and to establish a clear understanding of the process for developing and evaluating project alternatives.

WSDOT and FTA conducted several briefings during the Draft EIS public comment period to gather feedback on the alternatives and environmental effects, and they conducted additional briefings as the Final EIS was developed. See Table 7-4 for a list of the stakeholders who received briefings.



**Table 7-4. Stakeholders Receiving Briefings<sup>1</sup>**

<b>Organizations</b>
Federal Legislators
State Legislators
Ivar's Restaurant
Friends of the Mukilteo Waterfront
Silver Cloud Inn
Mongrain Building - glass blowing studio
Mukilteo City Council
Port of Everett Commissioners
Island County Commissioners
Port of South Whidbey Commissioners
Agency and Tribal Draft EIS Meetings and Natural Resource and Mitigation Briefings
Island County Regional Transportation Organization
Tribal Leadership Meetings
Snohomish County executives Gary Haakensen and Peter Camp

<sup>1</sup> See Section 7.3.5 for information about Section 106 consultations with tribal representatives, the Department of Archaeology and Historic Preservation, and the Advisory Council on Historic Preservation.

### **7.3.4 Government-to-Government Consultations with Tribal Nations**

FTA, working with the WSDOT Mukilteo Multimodal Project Tribal Liaison, formally contacted potentially affected tribes to assess their interest in the Mukilteo Multimodal Project. In particular, FTA contacted tribal governments representing the tribes who signed the Point Elliott Treaty because the Mukilteo shoreline is recognized as the area where the treaty was signed and is also an area within the treaty-protected usual and accustomed fishing and hunting grounds of four tribes. FTA and WSDOT have offered each potentially interested tribe the opportunity to act as a cooperating agency throughout the development of the EIS.

Table 7-5 lists government-to-government meetings with the tribes. These meetings have covered a range of environmental and project implementation issues of interest to the tribes, including the development of the Section 106 Memorandum of Agreement (MOA). As the EIS process has continued, the key topics of discussion have been cultural resources, ecosystems, fishing, and the treaty rights of the tribes.

**Table 7-5. Meetings with Tribal Nations**

<b>Meeting with Tribes</b>	<b>Date</b>
Presentation to the Suquamish Tribe	March 17, 2010
Presentation to the Swinomish Indian Tribal Community	March 17, 2010
Presentation to the Stillaguamish Tribe of Indians	April 15, 2010
Presentation to the Lummi Nation	April 29, 2010
Presentation to the Samish Indian Nation	May 12, 2010
Presentation to the Snoqualmie Tribe	September 1, 2010
Presentation to the Tulalip Tribes	September 24, 2010
Post-Scoping Meeting with Lummi Nation, Samish Indian Nation, Stillaguamish Tribe of Indians, Suquamish Tribe, Swinomish Indian Tribal Community, Sauk-Suiattle Indian Tribe, and Tulalip Tribes	December 10, 2010
Archaeological and Cultural Investigations Status Meeting with DAHP, Lummi Nation, Samish Indian Nation, Snoqualmie Tribe, Suquamish Tribe, and Tulalip Tribes	February 3, 2011
Tribal Briefing with Lummi Nation, Samish Indian Nation, Snoqualmie Tribe, Suquamish Tribe, Swinomish Indian Tribal Community, Sauk-Suiattle Indian Tribe, Tulalip Tribes, and U.S. Air Force	February 3, 2011
Meeting with Tulalip Tribes	August 25, 2011
Meeting with Snoqualmie Tribe to discuss Cultural Resources Discipline Report	August 26, 2011
Meeting with Stillaguamish Tribe of Indians to discuss Cultural Resources Discipline Report	September 7, 2011
Meeting with Tulalip Tribes to discuss Cultural Resources Discipline Report	September 7, 2011
Meeting with Samish Indian Nation to discuss Cultural Resources Discipline Report	September 8, 2011
Meeting with Swinomish Indian Tribal Community to discuss Cultural Resources Discipline Report	September 8, 2011
Meeting with Lummi Nation to discuss Cultural Resources Discipline Report	September 8, 2011
Meeting with Suquamish Tribe to discuss Cultural Resources Discipline Report	September 9, 2011
Meeting with Tulalip Tribes	September 10, 2011
Meeting with Tulalip Tribes to discuss Natural Resources	October 19, 2011
Cultural Resource Design Workshop (individual meetings) with Lummi Nation and Samish Indian Nation	January 24, 2012
Cultural Resource Design Workshop (individual meeting) with Snoqualmie Tribe	January 25, 2012
Cultural Resource Design Workshop (individual meetings) with Stillaguamish Tribe of Indians and Tulalip Tribes	January 30, 2012
Cultural Resource Design Workshop (individual meeting) with Swinomish Indian Tribal Community	January 31, 2012
Cultural Resource Design Workshop (individual meeting) with Suquamish Tribe	February 2, 2012
Natural Resources Mitigation Meeting with Snoqualmie Tribe, Suquamish Tribe, and Tulalip Tribes	February 15, 2012
Draft EIS Briefing Meeting for Tribal Leaders	February 22, 2012
Meeting with Suquamish Tribe to discuss possible effects on Treaty fishing activities	May 3, 2012
Informational Meeting with the Sauk-Suiattle Indian Tribe	June 19, 2012
Meetings with Tulalip Tribes and Suquamish Tribe to discuss sediment sampling	June 21, 2012
Section 106 MOA Kick-off Meeting	June 26, 2012
Meeting with Tulalip Tribes to discuss Mukilteo Multimodal Project	June 27, 2012
Meeting with Lummi Nation to discuss Treaty fishing access	June 27, 2012
Meeting with Suquamish Tribe to discuss Treaty fishing access	July 12, 2012
Meeting with Tulalip Tribes to discuss Mukilteo Multimodal Project	July 12, 2012
Meeting with Swinomish Indian Tribal Community to discuss Treaty fishing access	July 24, 2012

**Table 7-5. Meetings with Tribal Nations**

<b>Meeting with Tribes</b>	<b>Date</b>
MOA Meeting with Samish Indian Nation, Snoqualmie Tribe, Stillaguamish Tribe of Indians, Suquamish Tribe, and Tulalip Tribes	August 21, 2012
Meeting with Suquamish Tribe to discuss Treaty fishing access	September 13, 2012
Meeting with Suquamish Tribe to discuss Treaty fishing access	October 23, 2012
Meeting with Snoqualmie Tribe to discuss Cultural Resources and the draft MOA	October 24, 2012
Meeting with Lummi Nation	October 24, 2012
Meeting with the Muckleshoot Indian Tribe to discuss Cultural Resources and the draft MOA	October 25, 2012
Meeting with Tulalip Tribes to discuss Cultural Resources and the draft MOA	November 6, 2012
Meeting with Snoqualmie Tribe to discuss Cultural Resources and the draft MOA	November 15, 2012
Meeting with Stillaguamish Tribe of Indians to discuss Cultural Resources and the draft MOA	November 16, 2012
Meeting with Samish Indian Nation to discuss Cultural Resources and the draft MOA	November 16, 2012
Meeting with Suquamish Tribe to discuss Cultural Resources and the draft MOA	November 19, 2012
Monthly Meeting with Snoqualmie Tribe	November 28, 2012
Meeting with Tulalip Tribes to discuss cultural design criteria	November 29, 2012
Meeting with Swinomish Indian Tribal Community and Lummi Nation to discuss cultural design criteria and the draft MOA	December 3, 2012
Meeting with Tulalip Tribes to discuss protocol for addressing discovery	December 11, 2012
Meeting with Lummi Nation	December 11, 2012
Meeting with Samish Indian Nation to discuss the EIS, cultural design criteria, and the draft MOA	January 13, 2013

### 7.3.5 Section 106 Consultation Meetings

FTA and WSDOT have held Section 106 consultation meetings (see Table 7-5), and continued to consult with affected tribes, ACHP, DAHP, and other consulting parties during the development of the MOA to address effects on cultural resources.

### 7.3.6 Public Involvement Methods

In addition to public and agency meetings and community briefings, WSDOT used a variety of communications methods to involve the public and key stakeholders in the environmental review process. To ensure project information is widely available, WSDOT maintains a variety of communications tools and materials. These materials will continue to be updated as the project progresses.

Table 7-6 provides a list of public involvement methods used throughout the environmental review process.

**Table 7-6. List of Public Involvement Activities**

Season/Year	Project Milestone	Method						
		Stakeholder Briefings	Public Meetings	E-mail	Handouts	Database and Comment Tool	Website	News Release
Fall 2004	NEPA EA Scoping	✓	✓	✓	✓	✓	✓	✓
Winter/Spring 2006	NEPA EIS Scoping	✓	✓	✓	✓	✓	✓	✓
Summer/Fall 2010	Additional NEPA EIS Scoping	✓	✓	✓	✓	✓	✓	✓
Winter 2012	Draft EIS Publication	✓	✓	✓	✓	✓	✓	✓
Spring 2013	Final EIS Issuance	✓		✓	✓		✓	✓
Summer 2013 (Anticipated)	ROD Issuance	✓		✓			✓	✓

## Project Website

The project website provides up-to-date information and announcements about upcoming project milestones and public involvement opportunities, a project library, and contact information for the project. During the public scoping comment period, the website featured a public comment button that directed visitors to the Google Map comment tool. The project website address is [www.wsdot.wa.gov/projects/ferries/mukilteoterminal/multimodal/](http://www.wsdot.wa.gov/projects/ferries/mukilteoterminal/multimodal/).

## Database

A WSDOT database tracks public, agency, and stakeholder comments, and facilitates e-mail updates about the project and public engagement opportunities.

The database includes key stakeholders; community organizations; interested residents; interested ferry riders; government officials; media; contacts made at public meetings and requests from the website, e-mail, and other communication tools; and residents and businesses within 500 feet of the project area.

## Information Materials

WSDOT and FTA developed and frequently update the resource materials described below. These information materials are distributed at public meetings, project briefings, and other project-related events. All materials are also available on the project website.

## Project Timeline

The project timeline provides a graphic overview of key milestones and corresponding public involvement opportunities.

## Fact Sheet

The project fact sheet provides a brief overview, descriptions of each alternative, ways to provide comment, a schedule and milestones, and information on the purpose and need for the project.

**“Community Guide” to the EIS**

This document served as an overview of the environmental review process. The *Community Guide to the Draft EIS* included specific information about the Draft EIS phase (WSDOT 2012). For the Final EIS, a fact sheet was prepared instead of a community guide.

**Community Resources**

WSDOT tapped into existing community resources to share project information and encourage participation in the scoping process. These resources include community newsletters, blogs, Facebook pages for organizations in the project area, and websites.

**7.4 Preferred Alternative**

WSDOT selected Elliot Point 2 Alternative as its Preferred Alternative in May 2012 after considering the Draft EIS’s results; comments from the public, agencies, and tribes; the alternative’s ability to meet the purpose and need; and the balance of environmental benefits compared to impacts. As described in *Chapter 2 Alternatives*, WSDOT identified several design refinements to improve the Elliot Point 2 Alternative, reflecting public and agency comments and suggestions. Public outreach was conducted to ensure the public and interested stakeholders were informed of the decision. WSDOT sent an e-mail notice to the project e-mail list, and posted an announcement and a project folio (fact sheet) on the project website in May 2012 to advertise this project milestone.

This Final EIS is one of the final steps in the NEPA and SEPA process before the lead agencies decide whether or not they will take further action on the project. FTA is anticipated to issue a Record of Decision no sooner than 30 days after the Final EIS is released. This would allow WSDOT to move forward with securing funding, completing final design, obtaining permits, starting construction, and then moving into operations.

